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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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9 GMAC MORTGAGE, LLC FKA GMAC
10 MORTGAGE CORPORATION,

No. C 13-865 MMC

11 Plaintiff,

**ORDER GRANTING DEFENDANTS'
APPLICATIONS TO PROCEED IN
FORMA PAUPERIS; REMANDING
ACTION**

12 v.

13 JOSE AMAYA, et al.,

14 Defendants.

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17 Before the Court is the "Notice of Removal of Action Under 28 U.S.C. § 1441(b),"
18 filed February 26, 2013 by defendants Jose Amaya and Maria Elena Montano.¹ Also
19 before the Court are defendants' respective applications to proceed in forma pauperis.²
20 The instant notice of removal is the second attempt by said defendants to have the above-
21 titled case heard in district court. As set forth below, defendants' second effort fares no
22 better than the first.

23 Plaintiff GMAC Mortgage, LLC's ("GMAC") sole claim in said case is a claim for
24 unlawful detainer, which claim arises under state law. On September 27, 2012, defendants
25 filed their first notice of removal, asserting a federal question was presented. See GMAC
26 Mortgage, LLC v. Amaya, C. 12-5028 YGR, Doc. No. 1. By order filed November 26, 2012,

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28 ¹ A third defendant, Maria Isabel Flores, has not joined in the notice of removal.

² The applications are hereby GRANTED.

1 the Honorable Yvonne Gonzalez Rogers found the district court lacked subject matter
2 jurisdiction and remanded the action to state court for the reason that "there is no diversity
3 jurisdiction" and defendants "failed to identify a basis for federal question jurisdiction." See
4 GMAC Mortgage, LLC v. Amaya, C. 12-5028 YGR, Doc. No. 12.

5 The instant notice of removal is, in all respects, identical to defendants' first notice of
6 removal, and this Court finds, for the reasons set forth in Judge Gonzalez Rogers' order of
7 November 16, 2012, defendants have again failed to show, and cannot show, the federal
8 court has jurisdiction over GMAC's complaint.

9 Accordingly, the above-titled action is hereby REMANDED to the Superior Court of
10 California, in and for the County of Alameda.

11 The Clerk shall close the file.

12 **IT IS SO ORDERED.**

13 Dated: March 21, 2013


14 MAXINE M. CHESNEY
United States District Judge

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